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SUBJECT: PRESENTATION OF ANNUAL RWANDA WAR CRIMES TRIBUNAL (ICTR) AND YUGOSLAV WAR CRIMES TRIBUNAL (ICTY) REPORTS IN GENERAL ASSEMBLY

¶1. At a meeting in the plenary of the General Assembly on October 15, 2007, Judges Dennis Byron, President of the ICTR, and Fausto Pocar, President of the ICTY, presented annual reports on the Tribunals. In his remarks to the General Assembly, Judge Byron indicated that the Tribunal's chambers continue to function at full capacity and that all sections of the Tribunal are coordinating to complete the work as soon as possible, which includes strengthening the legal capacity of Rwanda courts. However, he emphasized the need to secure the arrests of fifteen fugitives still at large, particularly the arrest of Felicien Kabuga. According to Judge Byron, the Tribunal's mandate may require that some of the fugitives will have to be tried at the ICTR, which may delay the Tribunal's end date. He also said the difficulty of retaining Registry staff may negatively impact the Completion Strategy.

¶2. Judge Pocar similarly praised the ICTY on its efficiency and observed that it had become a "beacon in the development and enforcement of international justice." He indicated that in conjunction with the ICTR, the Tribunal had identified twelve residual issues related to Completion Strategies, ranging from matters such as outstanding fugitives and witness protection to requests for review of judgments and archives. He also emphasized the need for states to cooperate in the apprehension of the remaining fugitives, especially Radovan Karadzic and Ratko Mladic. Both Judges Byron and Pocar called upon Member States to continue their support for the ICTR and the ICTY.

¶3. Following presentation of the annual reports, Member States took the floor. The first speaker was Prime Minister Sanader of Croatia, who expressed dismay over the recent ICTY ruling in the Vukovar Hospital patients' massacre case, at Ovcara farm. "The Tribunal treated the Ovcara massacre as an isolated case, rather than as part of a systematic policy, whose chain of command led to the JNA's military headquarters and the then political leadership in Belgrade." Nonetheless, he reiterated Croatia's cooperation with the Tribunal and indicated Croatia's expectation that the ICTY appeals chamber would carefully reexamine the verdict upon the prosecutor's appeal and act in accordance with a clear mandate assigned to it by the UN Security Council. (Text of speech faxed to IO)

¶4. When the Serbian Permanent Representative subsequently addressed the General Assembly, he did not directly respond to Prime Minister Sanader's statement. Instead, he indicated that Serbia was generally pleased with the work of the ICTY and that successful cooperation with the ICTY was one of Serbia's prime objectives. As a sign of such cooperation, he said that Serbia was providing financial incentives for the arrest of particular fugitive indictees. Additionally, he indicated that the national judiciary is now able to process

complicated cases and called upon Bosnia and Herzegovina and Croatia to transfer any applicable cases.

¶15. Other Member States, including Portugal (on behalf of the European Union), Canada (on behalf of CANZ), Norway, Rwanda, Bosnia and Herzegovina, South Africa, the Russian Federation, and Benin (on behalf of the African Group), spoke in support of the ICTY and the ICTR. Speakers underscored the importance of working toward the Completion Strategies and identifying related residual issues such as archives. Toward that end, many Member States encouraged the possible transfer of cases to national jurisdictions. Additionally, the majority of speakers called upon Member States to support the ICTY and the ICTR financially as well as through the apprehension of fugitive indictees, most notably Ratko Mladic, Radovan Karadzic, and Felicien Kabuga.

KHALILZAD